

REMARKS/ARGUMENTS

Claims 1-2 and 5-20 are pending in the application. The Applicants have amended claims 1 and 10-11. No new matter is added by the amendments. Support for the claims as amended is found in the specification as filed. Reconsideration and allowance of all pending claims are respectfully requested.

On page 2 of the Office Action the Examiner rejected claims 1-2, 5-9 and 15 under 35 U.S.C. § 103(a) as being unpatentable over WO 99/53777 ('777) in view of deVries (U.S. Pat. No. 6,495,177, "deVries"). The combination of the references does not result in amended claim 1. Amended claim 1 recites a non-chewable pharmaceutical or dietary composition consisting of (a) one or more vitamins, (b) one or more minerals selected from the group consisting of Iron, Zinc and Magnesium, (c) one or more trace elements selected from the group consisting of Chromium, Copper, Iodine, Molybdenum and Selenium, (d) docosahexaenoic acid (DHA), and (e) a pharmaceutically or dietetically suitable carrier. The specification stresses the advantage of a supplement that is swallowed over one that is chewed (page 3, line 19 to page 4, line 9). The '777 reference discloses a composition, always including calcium, in the form of a pill, capsule, tablet or chewable candies. deVries discloses a chewable supplement without calcium. Furthermore, deVries teaches away from a non-chewable vitamin/mineral composition because it discloses that a significant aspect of the invention is a chewable supplement always containing an alkyl polysiloxane (column 6, lines 15-29). Therefore, the combination of the references results in a chewable supplement always with an alkyl polysiloxane, not the invention of amended claim 1. Thus claim 1 is not obvious over '777 in view of deVries and is therefore allowable. Claims 2, 5-9 and 15 which depend from claim 1 are also not obvious and are therefore allowable. Accordingly, the applicants respectfully request the Examiner to withdraw the rejection.

On page 4 the Examiner rejected claims 10-13 and 16-20 under 35 U.S.C. § 103(a) over '777 in view of deVries and further in view of Uiterwaal (U.S. Pat. No. 4,710,387, "Uiterwaal"). The combination of the references does not result in amended claim 10. Amended claim 10 recites a non-chewable solid dosage form pharmaceutical or dietary composition consisting of (a) a multi-vitamin mixture consisting of β -carotene, Vitamin B₁, Vitamin B₂, Vitamin B₆, Vitamin B₁₂, Vitamin C, Vitamin D₃, Vitamin E, Folic Acid, Biotin and Niacinamide; (b) a mineral

mixture consisting of Iron, Zinc and Magnesium ; (c) a mixture of trace elements consisting of Chromium, Copper, Iodine, Molybdenum and Selenium; (d) docosahexaenoic acid; and (e) a pharmaceutically or dietetically suitable carrier. For the same reasons stated above, the combination of '777 and deVries. does not result in the non-chewable supplement of the current invention. Uiterwaal fails to cure the deficiencies of the references. Uiterwaal. discloses a drinkable liquid supplement containing chromium, iodine and molybdenum. One skilled in the art when considering a chewable supplement having the combined properties of the '777 reference and deVries. would not look to the chromium, iodine and molybdenum of the drinkable supplement of Uiterwaal. Such a combination does not result in the invention of amended claim 10. Thus claim 10 is not obvious over '777 in view of deVries and further in view of Uiterwaal and is therefore allowable. Claims 11-13 and 16-20 which depend from claim 10 are also not obvious and are therefore allowable. Accordingly, the applicants respectfully request the Examiner to withdraw the rejection.

On page 5 the Examiner rejected claim 14 under 35 U.S.C. § 103(a) over '777 in view of deVries and further in view of Uiterwaal and Jimerson (Drug Development and Industrial Pharmacy, 12(8&9): 1133-1144 (1986)). The applicants respectfully traverse this rejection. Claim 14 depends from amended claim 10, recited above, and recites additional features. For the same reasons stated above, the combination of '777, deVries and Uiterwaal does not result in the non-chewable supplement of the current invention. Jimerson fails to cure the deficiencies of the references. Furthermore, the resulting chewable supplement from the combination of '777 and deVries, and the drinkable supplement of Uiterwaal teach away from the gelatin capsules of Jimerson. deVries teaches a chewable supplement containing alkyl polysiloxane in granulated form in which the ingredients are compressed into a hard tablet, and does not suggest a liquid form of the supplement (col. 10, lines 13-29). Jimerson teaches gel capsules in which the fill material is a liquid, semi-solids, or liquid suspensions of solids (pages 1133, 1137-38). Therefore a skilled artisan viewing the '777 reference in view of deVries and further in view of Uiterwaal would not look to the gel capsules disclosed in Jimerson. Thus claim 14 is not obvious over the cited references and is therefore allowable. Accordingly, the applicants respectfully request the Examiner to withdraw the rejection.

In view of the foregoing, the Applicants submit that all claims are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to

issuance are earnestly solicited. The fee for an RCE is included herewith. In the event that there are any fees dues and owing in connection with this matter, please charge the same to our Deposit Account No. 11-0223.

Respectfully submitted,

Dated: November 21, 2007

By: s/Timothy X. Gibson/
Timothy X. Gibson
Reg. No. 40,618
Attorney for Applicant(s)

Patent Department
Boehringer Ingelheim Corp.
900 Ridgebury Road
P.O. Box 368
Ridgefield, CT 06877
Tel.: (203) 798-4868